



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2022-0609; FRL-10025-03-R9]

#### **Air Plan Approval; Arizona; Maricopa County; Reasonably Available Control Technology - Combustion Sources**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve a revision to the Maricopa County Air Quality Department's (MCAQD or "County") portion of the Arizona State Implementation Plan (SIP). This revision concerns emissions of oxides of nitrogen (NO<sub>x</sub>) and particulate matter (PM) from combustion equipment and internal combustion engines. We are approving local rules that regulate these emission sources under the Clean Air Act (CAA or "Act") and making the determination that the County's control measures implement Reasonably Available Control Technology (RACT) for major sources of NO<sub>x</sub> under the 2008 8-hour ozone National Ambient Air Quality Standard (NAAQS).

**DATES:** These rules are effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2022-0609. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. If

you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** La Kenya Evans-Hopper, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972-3245 or by email at *evanshopper.lakenya@epa.gov*.

**SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us,” and “our” refer to the EPA.

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### **I. Proposed Action and Interim Final Determination**

On August 4, 2022 (87 FR 47666), the EPA proposed to approve the following two rules submitted by the Arizona Department of Environmental Quality (ADEQ) into the Arizona SIP.

<b>Local Agency</b>	<b>Rule #</b>	<b>Rule Title</b>	<b>Revised</b>	<b>Submitted</b>
MCAQD	323	Fuel Burning Equipment from Industrial/Commercial/Institutional (ICI) Sources	June 23, 2021	June 30, 2021
MCAQD	324	Stationary Reciprocating Internal Combustion Engines (RICE)	June 23, 2021	June 30, 2021

We proposed to approve these rules because we determined that they comply with the relevant CAA requirements. Our proposed action contains more information on the rules and our evaluation. On the same day, we also made an interim final determination (87 FR 47632) that the submittal from the ADEQ corrected SIP deficiencies from a previous submittal, allowing us to defer the imposition of sanctions resulting from our previous disapproval action concerning the

County's RACT demonstration for major sources of NO<sub>x</sub>.<sup>1</sup>

## **II. Public Comments and EPA Responses**

The EPA's proposed action provided a 30-day public comment period. During this period, we received no comments.

## **III. EPA Action**

No comments were submitted during the public comment period. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is fully approving these rules into the Arizona SIP. The June 30, 2021 versions of Rule 323 and Rule 324 will replace the November 2, 2016 versions of these rules in the SIP. On December 30, 2022 (87 FR 80462) we finalized approval for MCAQD Rule 322 to replace the SIP-approved version of that rule, which, together with our approval of Rules 323 and 324, would address our previous disapproval of the major sources of NO<sub>x</sub> RACT element. Therefore, we find that all three rules regulating major sources of NO<sub>x</sub> in Maricopa County meet the applicable CAA requirements and include requirements that are consistent with RACT for NO<sub>x</sub> sources. Based on this finding, the EPA concludes that the submitted rules satisfy CAA section 182 RACT requirements for the 2008 8-hour ozone NAAQS for major sources of NO<sub>x</sub>.

As a result of this action, the sanctions that were deferred in our interim final determination are now rescinded, and a federal implementation plan to resolve the deficiency is no longer required under section 110(c) of the Act. We will also delete our previous conditional approval codified at 40 CFR 52.119 (Rules and regulations) since subsequent versions of Rules 323 and 324 are being approved.

## **IV. Incorporation by Reference**

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of Maricopa County Air Quality Department, Rule 323, Fuel Burning Equipment from

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<sup>1</sup> 86 FR 971 (February 8, 2021).

Industrial/Commercial/Institutional (ICI) Sources, revised on June 23, 2021, which regulates NO<sub>x</sub>, CO, and PM from fuel burning combustion units at industrial and/or commercial and/or institutional (ICI) sources, and Rule 324, Stationary Reciprocating Internal Combustion Engines (RICE), revised on June 23, 2021, which regulates carbon monoxide (CO), NO<sub>x</sub>, sulfur oxides (SO<sub>x</sub>), VOCs, and PM from stationary reciprocating internal combustion engines. Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.<sup>2</sup> The EPA has made, and will continue to make, these documents available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

## **V. Statutory and Executive Order Reviews**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

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<sup>2</sup> 62 FR 27968 (May 22, 1997).

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.

The State did not evaluate environmental justice considerations as part of its SIP submittal. There is no information in the record inconsistent with the stated goals of Executive Order 12898 of achieving environmental justice for people of color, low-income populations, and indigenous peoples (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a

copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the ***Federal Register***. A major rule cannot take effect until 60 days after it is published in the ***Federal Register***. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the *Federal Register*]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Oxides of Nitrogen, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Dated: January 31, 2023.

Martha Guzman Aceves,  
*Regional Administrator,*  
*Region IX.*

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

**PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for Part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

**Subpart D—Arizona**

**§ 52.119 [Amended]**

2. In § 52.119, remove and reserve paragraph (c)(2).

3. In § 52.120, amend Table 4 to paragraph (c) by revising the entries for “Rule 323” and “Rule 324”, to read as follows:

**§52.120 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

**Table 4 to Paragraph (c) —EPA-Approved Maricopa County Air Pollution Control Regulations**

County citation	Title/subject	State effective date	EPA Approval Date	Additional explanation
*****				
Rule 323	Fuel Burning Equipment from Industrial/Commercial/Institutional (ICI) Sources	June 23, 2021	[INSERT <i>Federal Register</i> CITATION], [INSERT DATE OF PUBLICATION]	Submitted on June 30, 2021, under an attached letter dated June 24, 2021.
Rule 324	Stationary Reciprocating Internal Combustion Engines (RICE)	June 23, 2021	[INSERT <i>Federal Register</i> CITATION], [INSERT DATE OF PUBLICATION]	Submitted on June 30, 2021, under an attached letter dated June 24, 2021.
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4. In § 52.124 revise paragraph (b)(2)(i) to read as follows.

**§52.124 Part D disapproval.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(2) \* \* \*

(i) RACT determinations for CTG source categories for Aerospace Coating and Industrial Adhesives (“National Emission Standards for Hazardous Air Pollutants for Source Categories: Aerospace Manufacturing and Rework” (59 FR 29216), “Control of Volatile Organic Compound Emissions from Coating Operations at Aerospace Manufacturing and Rework Operations” (EPA-453/R-97-004), and “Control Techniques Guidelines for Miscellaneous Industrial Adhesives” (EPA-453/R-08-005)), in the submittal titled “Analysis of Reasonably Available Control Technology for the 2008 8-Hour Ozone National Ambient Air Quality Standard (NAAQS) State Implementation Plan (RACT SIP),” dated December 5, 2016, as adopted on May 24, 2017 and submitted on June 22, 2017.

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